

Good afternoon,

The Department of State Police (Department) hereby petitions the Supervisor of Public Records for approval to assess fees for costs associated with responding to a public records request submitted by Mr. Daniel Kaufman on February 11, 2019. Additional email communications between the Department and Mr. Kaufman took place subsequent to the original request in an effort to reduce the costs associated with responding (please see attached).

Specifically, Ms. Kaufman submitted a public records request to the Department seeking the following:

“Any and all documents, communications, memorandum, and reports containing the terms or related to the groups ‘Antifa’ ‘Socialist Rifle Association’ and ‘John Brown Gun Club’ between 1/1/15 and 2/10/2019.”

The Department, through the Executive Office of Technology Services and Security (EOTSS), conducted a preliminary search of emails for the designated time period and advised that there are approximately 5,563 emails responsive to this request. In an effort to further narrow the scope, Mr. Kaufman requested that additional parameters be added to the search. However, this proved unsuccessful and did not alter the number of results. Mr. Kaufman has indicated that he would still like to proceed with his request.

Given that the Massachusetts State Police is a law enforcement agency with various missions ranging from public safety and criminal justice to homeland security and emergency preparedness. As a result, a large percentage of department emails involve highly sensitive matters. Further, given our office’s and our agencies’ collaboration with other state and federal agencies on criminal investigations and other matters regarding state and national security, the resulting emails undoubtedly contain privileged and exempt information such as CORI data, intelligence and investigative data, personnel, private, and security related information, as well as information related solely to internal personnel rules and practices of government necessary to withhold to ensure the proper performance of the Massachusetts State Police. These categories of information are specifically exempt pursuant to G.L. c. 4, § 7, cl. 26 (a), (b), (c), (f), and/or (n) and are not subject to public disclosure. Accordingly, the information must be segregated and redacted from the email records before the emails are produced to a third party such as the requestor.

As a state agency with the responsibility for maintaining extensive confidential information, the Massachusetts State Police has an obligation to ensure proper procedures are maintained to prevent the dissemination of information which is protected from disclosure by law. Fulfilling such an obligation requires a careful review and segregation of records intended for disclosure. As you are no doubt familiar, segregation and redaction of email messages often involves the application of multiple exemptions to the public records law to a single email or even a single paragraph or sentence of an email. Some information is simultaneously protected by more than one exemption or different exemptions depending on context or the time of disclosure. The fee estimates provided are for the segregation and redaction process as a whole, and in the view of the Department, cannot be split up by exemption. Since the segregation and redaction process is required by law, the Department is entitled to charge a fee for the cost of production and does not view this petition as a necessary prerequisite to charging a fee to the requestor and has communicated its fee estimate to the requestor separately.

Given that there are 5,563 emails which the Department must review and redact, this will impose an onerous burden on the Department which will have to devote limited resources to review and redact these records. Given the volume of information requiring review, the Department’s good faith estimate of cost amounts to \$6,853.75. This amount is based upon the following: the Department will be required to review each of the 5,563 emails. The Department estimates, conservatively and in good faith, that it will expend an average of 3 minutes to review each email, an estimate which has been previously upheld by

the Supervisor of Records for similar requests. Accordingly, the good faith estimate is calculated at (16,689 minutes/60 minutes equals 278.15 hours). After subtracting the standard 4 hours the total is 274.15 hours at a rate of \$25/hour which equals \$6,853.75.

This estimate represents an actual and good faith representation. The cost is necessary, reasonable and is not designed to limit, deter, or prevent access to requested public records.

The Department therefore requests that the Supervisor of Public Records approve the assessment of the above referenced fee.

Thank you,

Jason Stelmat
Privacy Officer
Commonwealth Fusion Center
Department of State Police